

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF PENNSYLVANIA
JOHNSTOWN DIVISION

TRANSCRIPT OF HEARING ON THE NOTICE OF APPEAL
BY UNITED STATES FROM ORDER OF PRETRIAL RELEASE
AND MOTION FOR DE NOVO HEARING ON ORDER OF RELEASE
BEFORE THE HONORABLE KIM R. GIBSON
OCTOBER 3, 2017

13 FOR THE GOVERNMENT:

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Proceedings recorded by stenography, transcript produced with computer.

Kimberly K. Spangler, RPR, RMR
United States District Court
Penn Traffic Building, Ste. 204
319 Washington Street
Johnstown, PA 15901

PROCEDINGS

4 THE COURT: This is the time and place set for
5 hearing on the notice of appeal by United States from order of
6 pretrial release and motion for de novo hearing on order of
7 release in the case of United States v. William R. Dunbar,
8 Criminal Number 17-54-MJ.

9 Would counsel enter their appearance, please.

10 MS. HAINES: Stephanie Haines for the United
11 States.

12 MR. ZATKO: Matthew Zatko on behalf of the
13 defendant, William Dunbar.

14 THE COURT: Good afternoon to both of you, and to
15 the defendant and to the others present.

16 Attorney Haines, you may proceed.

17 MS. HAINES: Thank you, Your Honor.

18 As the United States has filed its detention
19 motion, we are predicating the primary reason for the
20 detention of Mr. Dunbar is danger to the community. We would
21 call Senior Special Agent Keith Heckman to the stand for
22 testimony.

23 THE COURT: Ms. Spangler, if you would administer
24 the oath, please.

25

1 SENIOR SPECIAL AGENT KEITH HECKMAN,

2 GOVERNMENT'S WITNESS, SWORN

3 DIRECT EXAMINATION

4 BY MS. HAINES:

5 Q. Please state your name for the record.

6 A. My name is Keith Heckman.

7 Q. And by whom are you employed?

8 A. The United States Secret Service.

9 Q. And how long have you been employed with secret service?

10 A. I've been employed 21 years.

11 Q. And you are a senior special agent?

12 A. I am.

13 Q. And what is your current duty position?

14 A. As a senior agent in our Pittsburgh field office. I
15 oversee counterfeit currency investigations, and am myself an
16 investigator. And then as the secret service as a dual
17 mission, I also am involved in our protective duties as they
18 arise guarding the president and vice president and others
19 that we protect.

20 Q. Were you acting in your capacity with the secret service
21 in your protection detail during a recent visit by the vice
22 president of the United States on September 11th of this year?

23 A. I was. I was involved as a member of the security
24 advance team in preparation for that visit.

25 Q. And would you please tell the Court what your duties and

1 responsibilities were for the weekend prior to the vice
2 president's visit on the 11th.

3 A. Yes, ma'am. During that advance I was assigned the role
4 of intelligence advance agent. And basically with that I work
5 with federal, state, and local law enforcement entities and
6 other entities looking for and addressing any adverse matters,
7 adverse intelligence that could affect the visit or the safety
8 of the vice president, in that case. And, you know, included
9 in those things would be direct and indirect threats known to
10 us towards the vice president.

11 Q. And in that capacity did you become aware of a direct
12 threat that was made against the vice president pending his
13 September 11th visit?

14 A. Yes, I was.

15 Q. Please tell the Court what you found out.

16 A. On the evening of September the 8th I received a phone
17 call from another secret service agent who was in charge of
18 securing the Cambria County Airport. The Army aviation side
19 of the airport is where the vice president would be arriving
20 by aircraft on 9/11.

21 So the agent securing that venue contacted me and stated
22 that he had just received word from a commander at the Army
23 National Guard that several -- two national guardsmen had
24 reported hearing National Guardsman William Dunbar threaten to
25 kill Vice President Pence.

1 Q. And were these threats that were directly overheard by
2 the reporting soldiers?

3 A. They were.

4 Q. As a result of receiving this information of these
5 threats by Specialist Dunbar, what did you do?

6 A. That same evening of September 8th, I contacted a
7 commanding officer at the National Guard base, introduced
8 myself, and he basically reiterated the same information the
9 secret service agent had forwarded to me. The commander
10 identified the guardsman in question as William Dunbar, and I
11 proceeded to make arrangements with that commander to
12 interview witnesses and Mr. Dunbar the following morning.

13 Q. And did you do that?

14 A. I did. I arrived on the base the morning of September
15 the 9th and conducted interviews.

16 Q. And did you have the opportunity to interview individuals
17 who directly heard the threats made by Mr. Dunbar?

18 A. Yes, I did.

19 Q. How many people in total did you interview?

20 A. Three.

21 Q. Did all three of these individuals hear directly from
22 Mr. Dunbar's mouth threats against the vice president?

23 A. Yes.

24 Q. What did these three individuals -- well, let me ask you
25 this: Were these three individuals also soldiers in the Army

1 Guard unit?

2 A. Yes.

3 Q. Did they describe their relationship that they had with
4 Specialist Dunbar as enemies or friends of his?

5 A. Not enemies. More of a friendly relationship.

6 Q. What did they tell you about what he said?

7 A. Okay. Yes, they -- in all three instances each witness
8 said they heard him say he would or will kill Vice President
9 Pence.

10 Q. Did they tell you, "Ah, Dunbar's funny like this, he
11 tells jokes," or were they very serious and concerned about
12 it?

13 A. They were very serious and concerned about the statements
14 that were made.

15 And I asked that question. I asked, you know, is this --
16 did you kind of perceive this as a joke? No, this scared us a
17 little. One particular witness kind of a quote that this
18 scared me.

19 Q. Did they explain to you why they were scared by these
20 type of statements by a fellow soldier?

21 A. Well, because they know him, they have been -- him being
22 Mr. Dunbar -- they've been around him. They have seen
23 volatility, anger issues, lashing out. And I think their
24 experience with him suggested to them this is something to be
25 concerned about and to report it.

1 Q. Now, you stated that these were individuals who knew him
2 in his capacity at the Army National Guard base.

3 A. Yes.

4 Q. And you questioned them about their past interactions
5 with him?

6 A. I did.

7 Q. Did any of them give specific details as to volatile
8 actions by him that scared them?

9 A. So there was knowledge presented to me that in the past
10 year, during 2017, there were two instances where Mr. Dunbar
11 had voiced suicidal ideation. Those concerns were brought to
12 command personnel, and then Mr. Dunbar was referred to
13 National Guard counseling with relation to that. And I --
14 obviously, there was a concern there on the part of the
15 national guardsmen.

16 Also, there were instances where outside of duty weekends
17 there was information put forth where Mr. Dunbar had acted in
18 a concerning capacity.

19 Q. In what specific ways were you told?

20 A. One specific example would be, you know, a witness was
21 aware that Mr. Dunbar got into a fight with a college student
22 at an area university, a fistfight type of fight, and alluded
23 to a gun being in his car, alluded to potentially using the
24 gun in relation to the fight, and just knowledge that the gun
25 is frequently -- or has been seen in the car in the past.

1 Q. Did these individuals voice their concerns or their fear
2 of Mr. Dunbar?

3 A. Yes. On that date of the interviews each witness
4 expressed concern to me and to the police officers and the
5 command personnel present, they voiced concern for their
6 safety in retaliation of -- for being a witness.

7 Q. And did they base that fear of retaliation on their
8 knowledge of the short-tempered and anger issues of Mr. Dunbar
9 that they personally witnessed in the past?

10 A. Yes.

11 Q. Now, did you also have the opportunity to discuss
12 Mr. Dunbar with what is known in the military as
13 noncommissioned officers or senior sergeants, people that were
14 a little older and more experienced in the military?

15 A. Yes.

16 Q. And did you have the opportunity to talk to a few NCOs
17 about what they know of Mr. Dunbar?

18 A. Yes, I did.

19 Q. And what did those NCOs tell you?

20 A. They recounted the same information, generally speaking,
21 regarding the notions of suicide that had been previously
22 addressed. I believe in June of 2017, after some counseling
23 related to the suicidal ideation, the military put into place
24 a restriction for Mr. Dunbar wherein he is not allowed to have
25 access to firearms on the base.

1 Q. And was that based on suicidal ideations of Mr. Dunbar,
2 or what was that based on?

3 A. So in continuing to talk with these NCOs, there had been
4 a pattern, a history of -- it was described to me as "roid
5 rage," as in someone who would use illegal steroids, and just
6 go into a rage fairly quickly. And that that behavior was
7 seen somewhat regularly, or with some commonality while he was
8 on the base. And that resulted in smashing things, breaking
9 things, throwing things.

10 And so just for the safety of Mr. Dunbar and for the
11 physical safety of other national guardsmen and other people
12 on the base, you know, they removed his access to weapons.

13 And then also around June of 2017 basically isolated him
14 on base to where he was by himself, but under the supervision
15 of one particular NCO. And that again was for his safety and
16 to ensure that he didn't harm -- out of rage and anger -- harm
17 other guardsmen.

18 Q. Okay. Now, you described NCOs called it "roid rage."
19 Now, they weren't suggesting basically he's on steroids, they
20 just used that as a term to qualify his volatility or his
21 violent outbursts; is that correct?

22 A. Yes. No suggestion implied that he was taking steroids,
23 but just that his quickness to anger would resemble someone
24 who was taking that drug.

25 Q. And that was one of the bases that they restricted him

1 from arming and restricted him from being around other
2 soldiers?

3 A. Yes, that's correct.

4 Q. In talking with the military then and up until now, have
5 they continued to inform you of their fears or trepidations
6 about Mr. Dunbar?

7 A. They have. And I was informed that at the point where
8 local charges had been filed against Mr. Dunbar were dropped
9 that the witnesses and/or family of the witnesses contacted
10 the NCOs, as well as a particular sergeant on the base,
11 contacted the NCOs out of safety concerns what they believe
12 that he -- that the charges were dropped and that he may be
13 released.

14 Q. And were these safety concerns for the safety of
15 Mr. Dunbar hurting himself or safety concerns for themselves
16 who have come forward?

17 A. They were concerns for themselves who have come forward.

18 Q. And it was based upon their knowledge and experiences
19 with Mr. Dunbar in the past?

20 A. Yes.

21 Q. After you interviewed the witnesses that heard the direct
22 threats made by Mr. Dunbar, did you also have the opportunity
23 to interview Mr. Dunbar?

24 A. I did.

25 Q. Okay. Let me get a little background from you. So you

1 said you've been a special agent with secret service for 21
2 years.

3 A. That's correct.

4 Q. How many times in the past have you interviewed or been
5 part of an investigation on someone who has made direct
6 threats against secret service protectees?

7 A. This is a critical part of our job. I would estimate
8 that at least a hundred times in my career I've had interviews
9 related to this.

10 Q. And obviously a critical part of that is making a
11 possible determination on the safety and security of the
12 protectee; is that correct?

13 A. Yes.

14 Q. Is also part of your job to make an assessment of the
15 danger that this target poses to the community at large?

16 A. Absolutely.

17 Q. When you were conducting your interview with Mr. Dunbar,
18 were both of those roles, safety and security of the vice
19 president as well as safety and security of the community at
20 large, tantamount to the interview you were conducting with
21 him?

22 A. Yes.

23 Q. Please tell the Court how that interview went.

24 A. Mr. Dunbar was brought into a room where I was already
25 seated. We met and sat down. Mr. Dunbar was advised of his

1 Miranda warnings before any questions were asked. Mr. Dunbar
2 signed the -- read and signed the Miranda and waiver form, so
3 the interview began.

4 And generally I'll start out with a basic question is,
5 "You know, sir, we're here with the understanding that you
6 made a threat against the vice president. Can you tell me
7 what you said yesterday." And Mr. Dunbar started out
8 appearing confused and uncertain as to, you know, why we're
9 asking him this, but he said, "I don't recall making any sort
10 of statement like that."

11 And you know, in -- he kind of maintained that position
12 for a while as we continued speaking. As questioning
13 continued, that answer then evolved into a different answer in
14 which Mr. Dunbar said, "Well, what I said yesterday was words
15 to the effect of 'this would be the perfect opportunity for
16 someone to do something.'" I then said, "Well, sir, what do
17 something -- you know, what is something?" And he said,
18 "Assassinate or kidnap the vice president." I said okay, but
19 he then said, "That was a joke." I said, "That isn't a joke."

20 I questioned him as to where the humor was in that
21 statement or why that would be something to call a joke when
22 it's simply an observation of fact. And I questioned the
23 veracity of what he was telling me. And he maintained that
24 position and that answer for some time, and at which point I
25 just changed the subject and I asked him about him.

1 Q. And did he start telling you about himself?

2 A. He did. I approached -- he did. I, I believe I asked
3 him how he was doing, how he was feeling, something along
4 those lines. And he'd recounted a number of issues in his
5 personal life that, quite honestly, were that -- you know, are
6 not good that he's dealing with.

7 And I asked him if he was at this moment feeling thoughts
8 of suicide, depression, that sort of thing. And he said, "No,
9 I haven't really felt suicidal since June of this year, but
10 none of this helps."

11 Q. Did he talk to you about past instances he had had with
12 the law?

13 A. So at that point -- he had become emotional during that
14 part of our conversation, and the folks from the National
15 Guard kind of said let's take a break. So a break was taken
16 in the interview, maybe 10 or 15 minutes, and Mr. Dunbar left
17 the room. He was escorted -- I do not know where they went --
18 some other room.

19 Q. And when the NCOs escorted him back to you, did the NCOs
20 relay to you information as to what occurred in their presence
21 with Mr. Dunbar?

22 A. Yes. They came back without Mr. Dunbar and said,
23 "Listen, Agent Heckman, Mr. Dunbar just said to us, 'Here's
24 that -- that what he said the day before was that I will kill
25 the vice president if someone paid us enough -- paid me enough

1 money.'" And I said okay.

2 Q. Did you ever learn who he defined would pay him enough
3 money would have him attempt to kill the vice president?

4 A. Yes. So as that notion progressed and then was brought
5 back and the interview continued, some clarification went on
6 that like another country. So if I was paid enough money by
7 another country. And so we kind of got that established now
8 as his third answer as to what he had actually said the day
9 before.

10 And I honestly didn't believe that that is what he said
11 the day before. However, I did ask him then -- moved on a
12 little bit to his criminal history. I said, "Well, have you
13 been in trouble before?"

14 Q. And what did he tell you?

15 A. He said, you know, as an adult there was a road rage
16 incident, but nothing -- nothing beyond that. And then he
17 said that as a younger person around age 14 that he was
18 arrested and charged with rape.

19 Q. Did he detail for you what that involved?

20 A. He did. He indicated that the -- the charge occurred and
21 it was ultimately pled down to a lesser charge, and that the
22 charges -- the rape charge stemmed from the -- the accusation
23 was that he had tied his cousin to a tree and raped her while
24 tied to the tree.

25 Q. And did he explain to you how the rape charge was pled

1 down to the indecent assault in this situation?

2 A. What he said to me was that "This is what the charge was,
3 but my attorney had a real good defense, is that this girl
4 weighed -- was heavy. She was a heavy girl. And she weighed
5 more than, at that age of my weight, than I could have --
6 could have done. I couldn't have tied her up because she
7 weighed more than me, and I couldn't have physically done that
8 so, therefore, you know, I had a good defense."

9 Q. And he pled it down to an indecent assault?

10 A. That's correct.

11 Q. Did he tell you or did you come to learn what or how he
12 was in a school setting? Was he a good student? Did he have
13 problems?

14 A. So what I understand is that there had been issues going
15 back for a long time in his life, and that during the high
16 school years there was a lot of fighting. He was placed into
17 actually two different schools for I guess troubled youth or
18 misbehaved youth in high school. Had one -- one of those
19 placements in school may have stemmed from an incident, by way
20 of example, where he had thrown a rock at a girl's head, and
21 another student kind of interceded to defend the girl and
22 break things up and he fought then with that student. So
23 there were definitely fighting issues, temperament issues
24 during high school.

25 I've also learned that there were -- there was at least

1 one incident of a suicidal notion during high school where
2 Mr. Dunbar had a knife and may have cut himself in relation to
3 the suicide threat. So there's definitely a kind of
4 historical pattern of concern here.

5 Q. Did you have a discussion with Mr. Dunbar when you were
6 interviewing him as to where he resides?

7 A. I did.

8 Q. Okay. What did he tell you?

9 A. Mr. Dunbar said that he had an apartment at a location in
10 Berlin, provided like a cross street location -- not an
11 address -- but that he wasn't currently living at that
12 apartment. He was living with a girlfriend in Maryland at her
13 residence, and was not able to tell me the address for that
14 residence.

15 Q. The address in Berlin, was he able to describe it in
16 enough fashion so that we were able to find out where that
17 actual place was?

18 A. Yes.

19 Q. And were we able to go in and search that residence?

20 A. Yes.

21 Q. And what was found at the residence that Mr. Dunbar
22 vaguely identified as a place where he resides?

23 A. There were five firearms in that residence.

24 Q. And what type of firearms were there?

25 A. There was a handgun, a shotgun, an AR-15, and two deer

1 rifles.

2 Q. Since the September 26th detention hearing that we had
3 here in court, has the investigation of Mr. Dunbar continued?

4 A. Yes, it has.

5 Q. Have you had the opportunity to interview additional
6 individuals relative to Mr. Dunbar and his past and his
7 current behavior and characteristics?

8 A. Yes.

9 Q. Were you able to talk with military personnel specific to
10 any psychological testing that had gone on?

11 A. Yes.

12 Q. And did that individual relay to you reasons why
13 Mr. Dunbar was prohibited from arming on the post?

14 A. Yes.

15 Q. And did those reasons predate the September 11th threat
16 against the vice president?

17 A. Yes.

18 Q. And what were you told as to -- from this recent
19 interview from a military psychologist as to the current
20 status of Mr. Dunbar?

21 A. Well, I just simply asked for clarification. The reason
22 why there was a restriction from firearms that stemmed from
23 counseling following a suicidal ideation to explain, you know,
24 at least in general terms, if there's going to be a guardsman
25 restricted from firearms why would you restrict a guardsman

1 from firearms.

2 And the answer was, "Well, A, so that they did not hurt
3 themselves but, B, so that they did not hurt anyone else on
4 the base."

5 Q. And that was a concern with Mr. Dunbar, that he didn't
6 hurt anyone else?

7 A. Yes.

8 Q. And this was from the military psychological department,
9 which is also in addition to the NCOs who told you the same
10 thing?

11 A. Yes.

12 Q. Did you have the opportunity since the last detention
13 hearing to also conduct interviews of community members who
14 know and have been around Mr. Dunbar for years?

15 A. Yes.

16 Q. And what did you learn from community members who have
17 known him for the last several years?

18 A. Well, I learned a lot. I -- the common first statement
19 that I think generalizing this would be, you know, extreme
20 anger, extreme volatility. The ability to go, as I mentioned
21 earlier, from 0 to 100 on the anger scale so quickly, and then
22 come down from that so quickly into almost a depressive state
23 of mind. That the imbalance there made it such that people
24 don't know what's going to happen next. That's the general
25 sense I would hear over and over.

1 Q. And were they concerned like what would happen next as to
2 what he would say to people or what he would do to people?

3 A. Both.

4 Q. Did these community members voice concern or fear of
5 Mr. Dunbar?

6 A. They did.

7 Q. Did some of these community members actually detail for
8 you instances where they had been physically harmed by
9 Mr. Dunbar?

10 A. I received information where Mr. Dunbar had hurt people,
11 and I don't mean a punch in the face. I mean hospitalization
12 required.

13 I have also heard information where, verbally at least,
14 there were intimations of firearms, or firearms had been
15 brandished. And in one instance -- in every instance there
16 were concerns voiced to me if comments were made to me would
17 retaliation occur. It was a common concern. One potential
18 witness simply said they would not speak to me because in
19 their words, "Mr. Dunbar is a live wire, and there will be
20 retaliation, and I will not speak to you."

21 Q. And that's based upon what this witness knows and has
22 experienced by Mr. Dunbar?

23 A. There is correct.

24 Q. Did you also have the opportunity to talk to any family
25 members of Mr. Dunbar?

1 A. I did.

2 Q. And what information did you receive from the family
3 members?

4 A. Essentially that Mr. Dunbar is all talk, no action; that
5 he is angry, quick to anger but that that translates into, you
6 know, verbal exchanges, not physical exchanges. And, however,
7 that he is -- the quote was "not right in the head and could
8 use some help, needs help."

9 Q. Now, we talked earlier about in your training and
10 experience with your 21 years that you assess these type of
11 targets for danger to the protectee and then also danger to
12 the community.

13 Could you tell the Court, based upon the investigation
14 you had to date and the interviews you conducted, the
15 assessment you've made, Senior Special Agent Heckman.

16 A. Absolutely. My conclusion at this point regarding
17 Mr. Dunbar's position as a threat to the community in terms of
18 people that are associated with this investigation, yes,
19 absolutely I am concerned that he poses a threat or a risk of
20 harm.

21 With regard to my official secret service investigation
22 of harm towards protectees of the secret service, I have not
23 drawn a conclusion.

24 MS. HAINES: No further questions, Your Honor.

25 THE COURT: Attorney Zatko.

1 MR. ZATKO: Yes, sir.

2 CROSS-EXAMINATION

3 BY MR. ZATKO:

4 Q. Special Agent Heckman, would you please tell me precisely
5 what the three interviews, or the three witnesses from the
6 base told you Mr. Dunbar said. What precisely was the threat?

7 A. Okay. The first witness said, with a slight preference
8 here to what they said, the first witness saw the second
9 witness reacting to something Mr. Dunbar said. The first
10 witness then paid attention, moved closer to the conversation
11 and heard Mr. Dunbar say, "I'll kill the vice president or
12 I'll kill the VP."

13 Q. Okay.

14 A. The second witness said that they heard Mr. Dunbar say
15 "I'd kill the VP or the vice president." And then on the
16 second occasion heard the same thing.

17 The third witness was much more specific. I found this
18 third witness especially credible -- all of this was credible,
19 but the third witness especially credible. She immediately
20 was able to recite what she recalled hearing the day before.
21 She said that Mr. Dunbar said, "F the VP." Using a curse
22 word. "I'll make a terroristic threat, I'll kill him. I
23 don't give a" -- S word -- "there's nothing they're going to
24 do."

25 Q. But Dunbar told you he made this statement conditionally;

1 if someone did something then I would, or this would be the
2 perfect opportunity to do something, correct?

3 A. He said both of those things.

4 Q. Understood.

5 But those were his statements?

6 A. Yes.

7 Q. He did not say to you, I said I'd kill the vice
8 president. He said, I may have said if somebody did
9 something, North Korea paid me enough money then maybe or then
10 I would?

11 A. You are correct.

12 Q. And the statement about "this would be the perfect
13 opportunity" was in reference to the fact that Vice President
14 Pence was going to be arriving on Monday?

15 A. Yes.

16 Q. Was Dunbar even scheduled to be on base on Monday?

17 A. I don't know.

18 Q. Would it surprise you to know that it was a drill weekend
19 which was Friday, Saturday, Sunday?

20 A. I knew it was a drill weekend, sir. I don't know if that
21 entails, you know, a Monday or not.

22 Q. Don't you think it would be important to know if he was
23 making these threats, and based on your belief that he was
24 potentially going to act on it, whether or not he was even
25 going to be on base when the VP got there?

1 A. Not when he lives only a matter of miles from the base.

2 Q. You indicated that the -- there were two instances of
3 suicidal ideations.

4 A. As reported to me, yes, sir.

5 Q. Was it reported to you that he had threatened any of his
6 fellow soldiers?

7 A. Not that I can recall.

8 Q. Was it reported to you that he had threatened any of his
9 superiors?

10 A. No.

11 Q. But rather, that he had perhaps made threats against
12 himself?

13 A. Yes.

14 Q. There's a concern because Mr. Dunbar may have been in a
15 fight at a college campus and he alluded to having a gun in
16 his car.

17 A. Yes.

18 Q. Did your witness indicate to you that he ever saw that
19 gun at the time of this altercation?

20 A. The witness indicated the gun was in the car. The
21 witness saw the gun in the car. I cannot state that the
22 witness saw the gun at the physical location of the
23 altercation --

24 Q. The witness wasn't even a witness to the fight. This was
25 something that the witness testified to that had happened in

1 the past?

2 A. As I understand it, the witness was present for the
3 fight.

4 Q. But he doesn't know if the gun was in the car?

5 A. He clarified that the gun was in the car.

6 Q. Did Dunbar ever pull a gun or anything like that?

7 A. On that date?

8 Q. Yeah.

9 A. At that fight, not to my knowledge.

10 Q. In fact, you don't have any reports of anyone saying they
11 were ever threatened by William Dunbar with a firearm, that he
12 ever pointed a firearm at anyone?

13 A. That would be incorrect.

14 Q. My statement was incorrect or your statement was
15 incorrect?

16 A. Your statement.

17 Q. Okay. So you're saying there's some person out there
18 claiming Dunbar pulled a gun on them?

19 A. Yes.

20 Q. We got no criminal record of that, correct?

21 A. Correct.

22 Q. We have no police report of that.

23 A. That I know of at this time, correct.

24 Q. Dunbar was -- well, you certainly pulled his criminal
25 record, did you not?

1 A. I did.

2 Q. You found nothing in his criminal record to indicate that
3 anyone had ever charged him with pointing a firearm at anyone?

4 A. That's correct.

5 Q. These fellow soldiers keep talking about this fear of
6 retaliation, yet nothing in his disciplinary file at the Guard
7 indicated that he threatened other soldiers.

8 A. I have not seen anything that is a direct threat to
9 another soldier, correct.

10 Q. In fact, the suicidal ideations that you refer to were
11 reported to the chain of command by another soldier, were they
12 not?

13 A. Yes.

14 Q. And that soldier wasn't retaliated against for making
15 that referral.

16 A. He was not retaliated for trying to get Mr. Dunbar some
17 help.

18 Q. Wasn't threatened.

19 A. Well --

20 Q. Correct?

21 A. He was not threatened, that's correct.

22 Q. You indicate you questioned Mr. Dunbar about his past
23 run-ins with the law.

24 A. I did.

25 Q. Let's talk about his past run-ins.

1 A. Okay.

2 Q. You'll agree with me that in November of 2008, when
3 Mr. Dunbar was 14 years old, he was charged with misdemeanor
4 indecent assault, felony rape, a second count of misdemeanor
5 indecent assault. And the ultimate disposition was one count
6 of indecent assault and one count of rape was dismissed, and
7 he was adjudicated delinquent solely on the misdemeanor
8 indecent assault; is that correct?

9 A. That sounds accurate.

10 Q. Then in 2013, at the age of 18, he was charged with a
11 summary offense of disorderly conduct and he pled guilty.

12 A. That's correct.

13 Q. In 2015 he was charged with a summary offense and he pled
14 guilty.

15 A. Correct.

16 Q. It was another summary disorderly conduct, I'm sorry.

17 A. Well, yes. Sorry.

18 Q. In 2016 he was charged with a summary offense of
19 harassment and was found not guilty.

20 A. I saw a disposition to that effect. I have not looked
21 into that incident, sir.

22 Q. And aside from then two summary convictions and a
23 misdemeanor juvenile conviction -- or juvenile adjudication --
24 aside from these charges there's absolutely nothing else on
25 Mr. Dunbar's record.

1 A. I would agree.

2 Q. So your interviews of this, for lack of a better term,
3 volcanic-type personality, someone who routinely goes around
4 threatening people, pointing guns at people, has the entire
5 community in fear of him, the criminal record doesn't exactly
6 back that up, does it?

7 A. Part also of my job involves completing the background
8 investigation when we hire secret service agents. Part of
9 that process involves a polygraph examination. We do that
10 specifically to find out more than what a criminal record
11 tells us.

12 People's actions, apart from any criminal record, are
13 important as what's on paper or what's been charged. Okay, so
14 I take seriously information that I learn from the community,
15 whether it is reflected as criminal charges on arrest records
16 or not, sir.

17 Q. But you're portraying this guy basically as a monster in
18 this community; everybody's afraid of him, nobody wants to
19 talk about him for fear of retaliation. Yet, he doesn't have
20 a single crime of violence on his criminal record, correct?

21 A. He does not, other than the ones already discussed. And
22 I am not attempting to make a portrayal. I'm simply reporting
23 what others have told me.

24 Q. You talk about him going to special schools for troubled
25 students. Can you tell me the names of those schools, please.

1 A. At this point I can only tell you the city. I cannot
2 tell you the names of the schools.

3 Q. Okay. What are the cities?

4 A. Bedford, PA and Everett, PA.

5 Q. Well, my understanding is that Mr. Dunbar attended
6 kindergarten through tenth grade in Berlin, Pennsylvania, at
7 Berlin High School. In eleventh grade he moved in to take
8 care of his great grandmother in Salisbury, Pennsylvania, and
9 attended school there. And for his senior year he went to
10 live with a relative in Meyersdale, and that's where he
11 actually graduated from high school. Those three schools are
12 all Somerset County public schools, not exactly reform
13 schools.

14 Where did you get the information about him going to
15 school in Bedford?

16 A. As part of my witness interviews that would have come
17 out. If it was mistaken, it was mistaken information. I'm
18 just reporting what I was told.

19 Q. You have concerns about Mr. Dunbar being forthcoming
20 about his residence because he didn't know the address to
21 those residences.

22 A. Correct.

23 Q. But Attorney Haines asked you if you were able, based on
24 his description of where the residence was, you certainly were
25 able to find it, correct?

1 A. Yes.

2 Q. And you'll agree with me that the guns he told you were
3 in the residence were, in fact, in the residence?

4 A. Yes.

5 Q. He told you about those long before you ever got there?

6 A. Correct.

7 Q. As part of your visit to his residence and as part of
8 your investigation, you certainly combed through the contents
9 of his residence?

10 A. Law enforcement -- I personally did not. Law enforcement
11 present did, yes.

12 Q. And you had the opportunity to discuss with them what
13 their findings were?

14 A. Correct.

15 Q. Was there anything at all found in Mr. Dunbar's residence
16 to indicate or support this notion that he was going to harm
17 either the vice president of the United States, or anyone else
18 for that matter?

19 A. There were knives, a few things that were not removed,
20 obviously five serious weapons. Nothing beyond those.

21 Q. All five weapons legally obtained.

22 A. I'm awaiting confirmation, but it would appear at this
23 point, yes.

24 Q. None of the weapons came up stolen, did they?

25 A. Not to my knowledge.

1 Q. Certainly not illegal to own knives, is it?

2 A. No.

3 Q. But again, you didn't find a to-do list to kill the vice
4 president or some type of schedule or plan or even -- was
5 there a computer found in the residence?

6 A. I don't think that there was.

7 Q. Did you search his cell phone?

8 A. No.

9 Q. Are you aware of any searches or online attempts by
10 Mr. Dunbar to elicit any additional information about the vice
11 president or his whereabouts or anything like that?

12 A. Not at this time.

13 Q. You testified that the psychologist told you that
14 Mr. Dunbar was not allowed to have firearms, not just because
15 he had threatened harm to himself but that he possibly was a
16 danger to others around him.

17 A. Yes.

18 Q. And as a result of that they took his gun away, his
19 service weapon.

20 A. Yes.

21 Q. But they didn't prohibit him from coming to the base or
22 drilling with his unit, did they?

23 A. No.

24 Q. So the concern or the fear was, If he doesn't have a
25 weapon he can still be part of his unit?

1 A. Isolated and supervised, yes.

2 Q. So the threat was not severe enough to keep him off base,
3 or the concern was not severe enough to keep him off base,
4 correct?

5 A. I hate to speak for the National Guard, but it's
6 apparent.

7 Q. I think we can let the facts speak for themselves.

8 These interviews, these people who I can only presume are
9 not present today, but people who say that Mr. Dunbar attacked
10 someone so violently they had to be hospitalized.

11 Again, any supporting documentation of that? A hospital
12 record? A police report? Anything other than what somebody
13 apparently told you?

14 A. Not at this time.

15 Q. Any suggestion of how old Mr. Dunbar was or when did that
16 happen or where did it happen?

17 A. I have some of that information, yes, all pending -- but
18 again --

19 Q. I'm sorry.

20 A. All pending --

21 Q. But again, no criminal charges, no call to the police,
22 nothing to substantiate what this person's telling you?

23 A. Pending further investigation, my answer is that you are
24 correct.

25 Q. It came to my attention earlier that one of your concerns

1 if Mr. Dunbar is released to his grandparents pursuant to the
2 home plan is that there may be some relative residing there
3 that has a criminal record.

4 A. Initially that had been brought to my attention. I
5 believe that had been discounted.

6 Q. Okay. So Roger Most, Jr. is not a concern regarding
7 Mr. Dunbar's home plan?

8 A. I'm conducting a lot of investigation in a short period
9 of time. I have learned that it is -- it's not confirmed to
10 me, but I believe he may be deceased.

11 Q. That was going to be my question. It's my understanding
12 he died eight years ago.

13 A. I recently discovered that, yes, sir.

14 Q. You focused your testimony today strictly on danger to
15 the community. You'll agree with me that Mr. Dunbar is not a
16 flight risk, correct?

17 A. I don't know how to answer that, sir. I don't know.

18 Q. You've done an investigation. He doesn't have a
19 passport, correct?

20 A. Correct.

21 Q. It's your understanding -- or is it your understanding
22 that he has resided in Western Pennsylvania, more specifically
23 Somerset County, his entire life?

24 A. Yes.

25 Q. Doesn't seem to have contacts outside the state, let

1 alone outside the country.

2 A. Other than a contact in Maryland, correct.

3 Q. He had a job in Maryland but Somerset County was -- it's
4 above Maryland.

5 A. I understand.

6 Q. You haven't discovered anything that he's ever failed to
7 appear for, any even of his summary cases, that he's never
8 failed to appear for court, correct?

9 A. That's correct.

10 Q. Finally, in your interviews with Mr. Dunbar's family, no
11 one in his family has indicated to you that they're afraid of
12 him.

13 A. Correct.

14 Q. In fact, it was the "all talk, no action" is what they
15 referred to it as?

16 A. Yes.

17 Q. His grandparents have indicated they are happy and
18 willing to have him come reside with them if released?

19 A. That is my understanding.

20 MR. ZATKO: That's all I have. Thank you, sir.

21 THE WITNESS: Thank you.

22 THE COURT: Attorney Haines.

23 MS. HAINES: I don't have anything, Your Honor.

24 THE COURT: You may step down, sir.

25 THE WITNESS: Thanks, Your Honor.

1 THE COURT: Attorney Haines, I will hear argument
2 with regard to the issue of detention or release and, in
3 particular, I ask that you direct your arguments to the 18
4 United States Code, Section 3142(g) factors.

5 MS. HAINES: If I may have a moment to pull those
6 so I can directly address those.

7 Looking specifically about the nature and
8 circumstances of the offense charged, including whether the
9 offense is a crime of violence, a federal crime of terrorism
10 or a minor victim of a controlled substance, firearm,
11 explosive, or destructive device, basically you've heard the
12 nature and circumstances of the offense, Your Honor. The
13 threat against the vice president of the United States is the
14 crux of the complaint, and the charge in the complaint that's
15 pending currently.

16 You had heard the witness tell and state how three
17 different witnesses who directly heard statements made by the
18 defendant in direct threats against the vice president. "I
19 will kill the vice president."

20 You heard the third witness, who our witness today
21 talked about how very explicitly Mr. Dunbar stated what he
22 intended to do to the vice president. From the basis of what
23 you heard of the offense charged, the elements that a threat
24 was made, you've heard that evidence here today.

25 The weight of the evidence against the person,

1 against Mr. Dunbar, is another factor. You heard that we have
2 three witnesses who directly heard the statements made right
3 from the mouth of the defendant. You also heard that when
4 given a vague location of where Mr. Dunbar resided, federal
5 law enforcement was able to retrieve from Mr. Dunbar five
6 different firearms that were located.

7 The defense counsel said, Was there anything else
8 in the apartment to make you believe that Mr. Dunbar could or
9 would carry out that threat against the vice president. You
10 heard the witness state, Well, there were some knives present,
11 but there were five serious, high -- I think he called them
12 high powered or obviously serious firearms. And that this man
13 resided just a short distance from the base when they were
14 retrieved.

15 The history and characteristics of the person is
16 the next factor to talk about. And you heard a lot of
17 information and evidence, Your Honor, from what I would call
18 basically three different types of persons who are aware of
19 this defendant.

20 You heard evidence from military personnel that
21 were interviewed and spoke with our agent. They told you
22 about the volatility of this defendant from not just the
23 weekend of the vice president's visit, but predates that
24 visit. He's short tempered, he's quick to anger, he flies off
25 the handle, he's known to throw things, be violent with

1 others. The military had to take such actions as to disarm
2 him, not only for his own protection based upon suicidal
3 ideations that this defendant has voiced during his military
4 service, but as was reiterated by noncommissioned officers, as
5 well as by the military psychologist that this military
6 soldier was prohibited from arming as a result of the fear
7 that was known and the threat that was posed by this person to
8 other members at the military installation.

9 They also felt compelled to not only disarm him and
10 not allow him to draw weapons, but during drill status weekend
11 he was required to be isolated, monitored, and escorted at all
12 times. Once again, not only based on his suicidal ideations,
13 but the fear of his likelihood of committing harm or
14 perpetrating some type of violent act against other soldiers
15 on that base. They talked that this had been something that
16 just didn't happen, that this was sort of a long-standing
17 event. That's from the military.

18 You also heard the agent talk about the military
19 witnesses that were very fearful, but felt compelled to come
20 forward and say this is what Dunbar said he was going to do to
21 the vice president. We're afraid of him because we know him.
22 We know how he acts. We don't know what he is capable of, but
23 they felt that they needed to come forward, but continue to
24 this day to say how afraid they are of Mr. Dunbar based upon
25 the characteristics of him.

1 Talking about also his physical and mental
2 condition, you also heard our witness testify to his
3 interviews with the community, that he went out and
4 interviewed people who have known Mr. Dunbar, who have lived
5 in the community with Mr. Dunbar. And he recited to you and
6 to the Court what he learned about prior instances of
7 brandishing a weapon, intimating threats of use of a weapon,
8 harming an individual to the point of hospitalization, that
9 members of the community -- once again, he's short tempered,
10 he's volatile, he acts out very quickly, we are afraid of him,
11 we don't know what he is capable of.

12 The other circumstances were when the secret
13 service agent talked to a family member who, understandably,
14 would be deferential to his family member but did still state
15 I think the quote was "he's messed up in the head, he needs
16 help."

17 When you're talking about these type of factors to
18 look at, the weight of the evidence, the nature of the
19 evidence based upon three eyewitness statements who actually
20 heard the direct threats made by him, and the detailed
21 chronology of the past and the current behavior of this
22 defendant who has been known for quite some time, dating back
23 to high school years where he was known to get into fights, he
24 has a juvenile conviction.

25 And I understand the downplaying by the defense of

1 his criminal history. The United States sees it in a
2 different way, Your Honor. We have a 22-year-old man who,
3 granted, he does not have the felony convictions that maybe
4 some others would have. But we have a young man sitting
5 before us who has some very serious red flags over the last
6 several years, and we live in a world where these red flags
7 cannot be ignored.

8 We have a juvenile conviction. He described --
9 Mr. Dunbar described this juvenile conviction to secret
10 service, "I was charged with rape but it ultimately got pled
11 down to an indecent assault because I supposedly raped my
12 cousin on a tree, but she was too heavy and that couldn't have
13 happened."

14 The United States sees that as a concerning start
15 to this young man's recitation of his past. We have that
16 conviction. We also have more recent disorderly conduct
17 convictions. He talked to the secret service agent about the
18 road rage incident that has his license suspended. We now
19 have him in very graphic terms displaying threats to the
20 United States.

21 So, yes, he does not have a long list of felonies,
22 but he definitely over of the last several years has been
23 engaging in very concerning, disturbing, volatile conduct that
24 appears potentially to be escalating.

25 We have a community, not only a military community,

1 but a community in Somerset County that is detailed to the
2 secret service agent, specific acts of volatility, as well as
3 their continued fear of coming forward and their fear of
4 retaliation.

5 Now, as the secret service agent so eloquently
6 said, I don't just take what's on paper, a criminal history
7 that's on paper. I take and assess what I also hear from the
8 community that he lives in, the people he works with, the
9 people he's around, and I take that into serious consideration
10 when I'm doing an assessment.

11 You heard it from the secret service agent with 21
12 years of experience that when he was done his assessment of
13 this defendant that he has serious concerns for the safety of
14 the community that Mr. Dunbar would return to, based upon the
15 investigation to date.

16 We are asking that he be detained, Your Honor,
17 based on danger to the community, on what you've heard. In
18 the alternative, we would request this Court to consider, if
19 appropriate in the Court's eyes, we would request the Court to
20 order an immediate psych evaluation, either by a local
21 psychiatrist or by the federal correctional institution at
22 Butler who could do a full, intensive mental workup on this
23 defendant. So that if there were such terms and conditions
24 that could be established by this defendant, we would have a
25 professional in the federal system, either a local

1 psychiatrist or a psychiatrist at Butler make that decision to
2 further educate the Court, as well as the parties. We would
3 ask that it be immediate.

4 We would ask that Mr. Dunbar be detained until that
5 immediate psych evaluation could be done and completed and a
6 report given both to the Court and the United States and to
7 the defense.

8 As an alternative, to basically assess the mental
9 status and the mental health of this man who, in the eyes of
10 the United States, has extremely exhibited red flags that must
11 be addressed. That would be our alternative suggestion to the
12 Court to order in this circumstance.

13 THE COURT: All right. Attorney Zatko.

14 MR. ZATKO: Thank you, sir.

15 Your Honor, to address the psychological evaluation
16 question, when Mr. Dunbar was arrested by the state
17 authorities on September 9th, he was immediately taken to
18 Conemaugh Hospital and he was subjected to a psychological
19 evaluation, or a psychiatric evaluation by the psych unit at
20 Conemaugh to determine if, in fact, he could be detained under
21 a Section 302 finding.

22 The doctor found that Mr. Dunbar did not pose a
23 threat to himself or others upon his arrest on September 9th,
24 2017.

25 Your Honor, to address 3142(g) factors, first, with

1 respect to the nature and characteristics of the offense
2 charged, I think everyone has to recognize that what
3 Mr. Dunbar is being charged with is making a statement. He is
4 not being charged or it's not alleged that he took any
5 affirmative steps to carry out the threat.

6 Mr. Dunbar's own words, if you look at the Supreme
7 Court's holding in *Watts v. U.S.*, Mr. Dunbar's own words are a
8 conditional statement. "If something happens then I would
9 harm the president."

10 *Watts v. U.S.* squarely addressed that, and they
11 said a conditional statement is not a -- it's not an
12 established threat that would find someone guilty of 18871.
13 So we have statements of three ear-witnesses, but we also
14 have Mr. Dunbar's statements that the government is intending
15 to show that he admitted to making these threats. Well, quite
16 frankly, I don't think that his statements even remotely come
17 close to establishing that threat.

18 But taking it one step further; when you look at
19 the factors that the Court is to consider, Mr. Dunbar's
20 character. He's 22 years old. He's been a soldier in the
21 National Guard for approximately four years. He was a
22 distinguished honor graduate from advanced training. He
23 received an Army achievement metal. He recently graduated
24 from a reclassification school to be a refueler at the base.

25 His physical and mental condition, we've heard

1 testimony about Mr. Dunbar's threat to himself in June. The
2 guidelines don't consider threats to yourself as a reason to
3 detain someone.

4 We haven't heard any witnesses here today to
5 specifically say to us, "Dunbar has threatened me, Dunbar has
6 threatened to retaliate against me." Even the witness who
7 turned him in to his chain of command for the suicidal
8 statement, that's one of our three witnesses in this case.
9 It's the same person. Mr. Dunbar didn't retaliate against
10 that person for turning him into the chain of command and
11 having his weapon taken away, so why would we believe that he
12 would retaliate against that witness now.

13 More importantly, the max sentence in this case is
14 five years. If he retaliates or he threatens someone he's
15 facing a much, much, much more serious sentence than he's
16 facing on the charge before this Court today.

17 He has strong family ties to the community. His
18 grandparents, Roger and Ruth Most, are in the courtroom today.
19 They have indicated to pretrial services that William will
20 reside with them should he be released.

21 William has a job at TJ Maxx in Cumberland,
22 although he's been -- or he had a job. He's been incarcerated
23 since September 10th. I can't represent to the Court whether
24 or not he still has that job.

25 His financial resources are minimal. The pretrial

1 report seems to indicate his net worth is somewhere about
2 \$4,500. So I think any notion that he's going to put together
3 a pile of cash and take off is easily discounted.

4 He's lived in the community his entire life. He
5 went to high school at three Somerset County high schools.
6 His siblings are in Somerset County.

7 His prior record, Your Honor, is minimal at best.
8 He has a misdemeanor juvenile delinquent charge, and he has
9 two summary convictions.

10 We've heard descriptions of this monster-type
11 individual, this volcanic personality that everyone's afraid
12 of and no one wants around, and they know he's going to do
13 these horrible things, why doesn't his record speak to that?
14 Why haven't we seen, even if there were findings of not guilty
15 or there were plea bargains, why don't we see a record
16 consistent with someone of the behavior that the government
17 wants to submit Mr. Dunbar exhibits.

18 He's appeared at all former court proceedings. We
19 have reviewed the pretrial services report. We concur with
20 the assessment that he be released, that Mr. Dunbar be
21 released on an unsecured bond with conditions. Judge Pesto
22 had added an additional condition of home confinement. Quite
23 frankly, Your Honor, we don't object to that. If Your Honor
24 believes that home confinement will assure the safety that the
25 government suggests needs assured, we don't object to that.

1 His weapons have been taken. He voluntarily
2 disclosed where the weapons were. There weren't weapons
3 hidden. There weren't additional weapons. There weren't
4 illegal weapons. There weren't stolen weapons. He has done
5 everything asked of him since his arrest.

6 I would submit that the government has not met its
7 burden to prove that he would be a danger or a threat to the
8 community, and we respectfully request that you would follow
9 the recommendations as set forth by pretrial services.

10 Thank you, sir.

11 THE COURT: Attorney Haines, any response?

12 MS. HAINES: Just briefly, Your Honor.

13 The release by Conemaugh on the night it happened,
14 I have not read that report. I have no idea what they did,
15 what they said, what the response was. However, obviously,
16 that brief interlude that Conemaugh Hospital had with
17 Mr. Dunbar on that evening versus the investigation to date
18 has, obviously, shed a lot more light on who Mr. Dunbar is and
19 what his past characteristics and behaviors are, which is the
20 suggestion of the United States to do the immediate
21 psychological eval by federal selected authorities.

22 Also, when talking about the nature of the threat
23 and saying, "Well, Mr. Dunbar said it was a conditional
24 threat." Well, you heard Mr. Dunbar gave three different sort
25 of recitations of what he said or didn't say. We have three

1 concrete witnesses who do not say it was in any sense of the
2 word they were conditional threats. They were direct threats
3 we're talking about.

4 And the final point the United States would like to
5 make is the defense wants to rely on or somehow equate the
6 fact that a soldier coming forward and letting the chain of
7 command know that another soldier is potentially going to harm
8 themselves, and that no retaliation occurred against that
9 soldier, is somehow or could somehow also equate to no
10 retaliation at this point.

11 That does not even come close to an analogy that
12 can be made. There is no way to argue that because somebody
13 wasn't retaliated against because they came forward to help
14 and possibly save the life of someone threatening suicide,
15 would not be retaliated against when this same concerned
16 soldier came forth and brought forth evidence that has
17 resulted in these federal charges.

18 So to use that as a basis why he didn't retaliate
19 in the past when someone said he was going to kill himself, he
20 surely probably wouldn't retaliate now, you heard direct
21 evidence from multiple witnesses, military community and
22 otherwise, who are in fear of retaliation from this defendant
23 based on his past. That is why we ask for him to be detained
24 or in the alternative the immediate psych evaluation.

25 MR. ZATKO: Nothing additional, sir.

1 THE COURT: I direct the court reporter to prepare
2 an official transcript of this proceeding, and I assess the
3 costs of that transcript on the United States.

4 I take the issue of pretrial detention or pretrial
5 release under advisement, and I will issue a decision before
6 the end of this week. I do want to consider this additionally
7 at this time, based on what the testimony was today. In
8 reaching that decision, I will be considering the factors set
9 forth in 18 United States Code, Section 3142(g).

10 Pending the decision which, as I said, should be
11 issued by the end of this week, the defendant shall remain
12 detained and the United States Marshal Service shall take
13 custody of the defendant pending additional order of Court.

14 This hearing is in recess until call of Court.

15 (Proceedings concluded at 3:15 p.m.)

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1 CERTIFICATE OF OFFICIAL REPORTER
23 I, Kimberly K. Spangler, Federal Official Court
4 Reporter, in and for the United States District Court for the
5 Western District of Pennsylvania, do hereby certify that
6 pursuant to Section 753, Title 28, United States Code, that
7 the foregoing is a true and correct transcript of the
8 stenographically reported proceedings held in the
9 above-entitled matter, and that the transcript page format is
10 in conformance with the regulations of the Judicial Conference
11 of the United States.12 Dated this _____ day of _____ 2017
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